

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TONY RAY LARSON,)
Plaintiff,)
vs.) Case No. CIV-14-00062-R
DR. McCURDY; DR. FISHER;)
JIM FARRIS, Warden;)
GENESE McCOY; TAMARA)
HILL, CHSA; EDWARD EVANS,)
Interim Director,)
Defendants.)

REPORT AND RECOMMENDATION

Plaintiff, a state prisoner appearing pro se, has filed this civil rights action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. On January 22, 2014, the matter was referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). That same day, the undersigned noted that Plaintiff's motion, Doc. 2, was deficient, and advised Plaintiff that in order for his action to proceed, he must cure the deficiencies by February 11, 2014. Doc. 5. Plaintiff filed another deficient motion on February 11, 2014. Doc. 6. By order dated February 12, 2014, Doc. 7, the undersigned noted that Plaintiff's motion, Doc. 6, was deficient and advised Plaintiff that in order for his action to proceed, he must cure the deficiencies by March 5, 2014. The undersigned also

advised Plaintiff that failure to comply could result in the dismissal of his action. Doc. 7, at 2.

To date Plaintiff has not responded to this Court's order. He has neither cured the deficiencies, nor shown good cause for his failure to do so, nor requested an extension of time to comply with the order. The undersigned finds that Plaintiff's failure to comply with this Court's order, together with the Court's right and responsibility to manage and control its case load, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (noting the Court applies Fed. R. Civ. P. 41(b) to allow sua sponte dismissal for "failure to . . . comply with the rules of civil procedures or court's orders").

RECOMMENDATION

Therefore, the undersigned recommends that Plaintiff's action be dismissed without prejudice. Any objection to this Report and Recommendation must be filed with the Clerk of this Court on or before the 7th day of April, 2014, in accordance with 28 U. S. C. § 636 and Federal Rules of Civil Procedure 72. Failure to make a timely objection to this Report and Recommendation waives the right to appellate review of both the factual findings and the legal issues decided herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the
Magistrate Judge in the captioned matter.

ENTERED this 18th day of March, 2014.



SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE